

**MINUTES OF THE
SENATE COMMITTEE ON NATURAL RESOURCES**

**Seventy-third Session
March 9, 2005**

The Senate Committee on Natural Resources was called to order by Chair Dean A. Rhoads at 1:30 p.m. on Wednesday, March 9, 2005, in Room 2144 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Dean A. Rhoads, Chair
Senator Mike McGinness, Vice Chair
Senator Mark E. Amodei
Senator Bob Beers
Senator Bob Coffin
Senator Maggie Carlton

COMMITTEE MEMBERS ABSENT:

Senator Michael Schneider (Excused)

STAFF MEMBERS PRESENT:

Linda Eissmann, Committee Policy Analyst
Jonathan Sherwood, Committee Secretary

OTHERS PRESENT:

Daryl E. Capurro, Nevada Motor Transport Association
Blair Poulsen, Chairman, Board for the Regulation of Liquefied Petroleum Gas
Leo Drozdoff, Administrator, Division of Environmental Protection, State
Department of Conservation and Natural Resources
Peter Krueger, Nevada Petroleum Marketers and Convenience Store Association
Clay Thomas, Deputy Director, Department of Motor Vehicles
Mike L. Baughman, Humboldt River Basin Water Authority

Chair Rhoads opened the work session on Senate Bill (S.B.) 16 and requested all interested people to come forward to testify.

SENATE BILL 16: Authorizes use of money in Fund for Cleaning Up Discharges of Petroleum by State for cleanup of discharges involving petroleum and other discharges under certain circumstances. (BDR 51-662)

Daryl Capurro, Nevada Motor Transport Association, spoke against S.B. 16. He said the original intent of *Nevada Revised Statutes* (NRS) 590.700 through 590.900 was to protect a landowner from losing property due to an oil spill from a tank underground or aboveground placed on the property by a previous owner. He said the money appropriated from a fuel tax for this purpose was to be collected until the fund reached a cap of \$7.5 million. He stated once the fund reached the cap, the Division of Environmental Protection (DEP) was to report to the Department of Motor Vehicles (DMV) that collection of the money for the fund was no longer necessary. Mr. Capurro said the fund had reached \$11.7 million in 2004 and the DMV still had not been notified by DEP. Chair Rhoads asked if the law specifically stated money for the fund no longer be collected after it reached \$7.5 million. Mr. Capurro said NRS 590.860 was where the provision was located. Mr. Capurro said S.B. 16 would divert \$500,000 to oil spills not connected to NRS 590.700 through 590.900. He said S.B. 16 allows for funds to be used in the cleanup of petroleum spills that occur during transportation on highways or roads. He also said S.B. 16, section 4, subsection 1, makes petroleum tanks used in interstate commerce exempt from the provisions in S.B. 16. He said these two provisions in S.B. 16 indicated the law would only apply to intrastate petroleum transports.

Chair Rhoads asked Mr. Capurro if he had ever contacted DMV about the continued collection of fees for the fund. Mr. Capurro said it was DEP's responsibility to contact DMV.

Blair Poulsen, Chairman, Board for the Regulation of Liquefied Petroleum Gas, spoke about a proposed amendment to S.B. 16, which was given to the Committee ([Exhibit C](#)). Mr. Poulsen explained the amendment would provide more efficiency in regard to change notices to licensed propane gas dealers in the State.

Leo Drozdoff, Administrator, Division of Environmental Protection, State Department of Conservation and Natural Resources, said DEP and Mr. Poulsen spoke about cleaning up S.B. 16 on issues not affecting DEP. Chair Rhoads asked Mr. Drozdoff about the original intent of S.B. 16. Mr. Drozdoff said S.B. 16 was an expansion on existing measures of cleaning up petroleum spills.

Mr. Drozdoff said the existing statute did allow for reimbursement of funds from the party responsible for the spill, but there usually was a delay in receiving those funds. He said S.B. 16 would allow funds to be more readily available. He said DEP would use one full-time employee and a budget of \$75,000 with a cap of \$500,000. Mr. Drozdoff stated DEP would probably never reach the cap.

Senator Carlton asked Mr. Poulsen what the cost of notification was to the licensed propane gas dealers in the State. Mr. Poulsen said the cost was about \$1,200. He said the Board was self-funded which meant the cost of mailing notices of change was being passed on to the license holders. He said the amendment to S.B. 16 would cut the costs of notification. Senator Carlton voiced concern that a cut in notification might place the Board or a license holder in a difficult position in the future. Senator Carlton asked where the money would go, if not to notifications. Mr. Poulsen said because the Board is self-funded, the savings would be passed on to the license holders.

Peter Krueger, Nevada Petroleum Marketers and Convenience Store Association, said S.B. 16 would allow DEP staff to get an early start on reported petroleum spills. Chair Rhoads asked if S.B. 16 was an expansion of the intent of the original statute. Mr. Krueger said it was an expansion. Mr. Capurro said S.B. 16 would allow DEP early access to funding, but did not include any language regarding the return of money from the responsible party of a petroleum spill at a later time.

Chair Rhoads said S.B. 16 would be put on hold until the interested parties could meet and discuss the issue further.

Chair Rhoads opened the work session on S.B. 26.

SENATE BILL 26: Revises provisions governing distribution of money in Pollution Control Account to local governmental agencies. (BDR 40-397)

Linda Eissmann, Committee Policy Analyst, referred to an amendment to S.B. 26 in a work session document provided to the Committee ([Exhibit D](#), original is on file at the Research Library). She explained the amendment had come from the DMV. She explained the amendment would strike some language within S.B. 26.

Clay Thomas, Deputy Director, Department of Motor Vehicles, spoke about the proposed amendment to S.B. 26. He explained the reason for the proposed amendment came after discussion with other State agencies that also used the grant money. He said restricting the money for air quality issues associated only with mobile sources of emissions would be too restrictive for those agencies. He said many agencies used the money for pollution control regarding nonmobile source activities.

Senator Beers asked if there would be any direction in the use of the grant funds in NRS 445B.830 as a result of the amendment. Mr. Thomas said NRS 445B.830 did say the money was to be utilized for air quality issues. He said the amendment would remove the restrictive language in S.B. 26 that would hurt other State agencies. He said S.B. 26 would allow for a greater range of air pollution control than just vehicle emissions.

Chair Rhoads said S.B. 26 would be held until the amendment could be clarified to the Committee.

Chair Rhoads opened the work session on S.B. 35.

SENATE BILL 35: Revises provisions governing certain transfers of water.
(BDR 48-425)

Senator Carlton said she had contacted former State Senator Ernie Adler and had received clarification regarding the issue of the word "tax" versus "fee" in a document she received from the Research Division of the Legislative Counsel Bureau (Exhibit E). She said:

the legal distinctions between taxes and user charges, otherwise known as fees are the factors the courts use to distinguish between taxes and fees, according to State Taxation, Third Edition. The legal distinctions include: whether the payment was voluntary, which would mean a fee, or involuntary, which would mean a tax; whether the payment was for a specific governmental benefit, which would be a fee, or for general governmental purposes, which would be a tax; whether the payment was made into a segregated fund, would be a fee, or paid into the general treasury, which would be a tax; whether the payment was imposed by a regulatory

agency upon those subject to regulation, which is a fee; or to defray general governmental expenditures, a tax.

Senator Carlton asked if the proponents of S.B. 35 still wanted to change the word "tax" to "fee." Mike L. Baughman, Humboldt River Basin Water Authority, said the criteria listed by Senator Carlton for the word "fee" matched what was in S.B. 35. He also said some government agencies are tax-exempt which would make the change more practical.

Chair Rhoads said S.B. 35 would be held until the Committee had an opportunity to examine [Exhibit E](#).

Chair Rhoads opened the work session on Senate Joint Resolution (S.J.R.) 1.

SENATE JOINT RESOLUTION 1: Urges Congress to take certain actions concerning wilderness areas and wilderness study areas. (BDR R-703)

Chair Rhoads explained the proposed amendment to S.J.R. 1 by the Friends of Nevada Wilderness, which would change the language on page 2, line 44 through page 3, line 3 as described in [Exhibit D](#), page 16.

SENATOR CARLTON MOVED TO AMEND AND DO PASS S.J.R. 1.

SENATOR McGINNESS SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR SCHNEIDER WAS ABSENT FOR THE VOTE.)

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Chair Rhoads adjourned the meeting at 2:09 p.m.

RESPECTFULLY SUBMITTED:

Jonathan Sherwood,
Committee Secretary

APPROVED BY:

Senator Dean A. Rhoads, Chair

DATE: _____